

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 475 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.PANDIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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G S R T C

Versus

C Z PANCHAL

CONDUCTOR

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Appearance:

MR Hardik Raval for Petitioner

MR MUKESH R SHAH for Respondent No. 1

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CORAM : MR.JUSTICE S.D.PANDIT

Date of decision: 12/07/96

ORAL JUDGEMENT

Gujarat State Road Transport Corporation has filed the present petition under Article 227 of the Constitution of India. The respondent herein C.Z.Panchal was working in Himatnagar Division of the petitioner Corporation. On 5.8.76 he was working as a conductor on bus No.6857 which was plied from Talod to Bileshwar. Said

bus was checked at Bileshwar stand and at that time it was found that five passengers were not issued tickets though they have paid the bus fare. As regards this incident, a show cause notice was issued against the present respondent to show cause as to why departmental action should not be taken against him. Thereafter, he was charge-sheeted and departmental inquiry was held. The corporation inflicted punishment of withholding one increment for one year with permanent effect.

2. Being aggrieved and dis-satisfied with the said punishment respondent made a Reference being Ref.(IT) 492 of 1978 before the Industrial Tribunal, Gujarat State, Ahmedabad. The Industrial Tribunal by its order dated 21.8.84 partly allowed the said reference and altered the punishment by withholding one increment for one year without permanent effect. Present petition is filed against the said order of the Industrial Tribunal.

3. Mr. Raval for the corporation vehemently urged before me that the Member of the Industrial Tribunal was not at all justified in modifying the sentence awarded by the corporation. The learned Member of the Industrial Tribunal had found that five passengers whom tickets were not issued had entered the bus at the previous stop and the checking had taken place on the next stop before the respondent could actually issue the ticket. The learned Member of the Industrial Tribunal came to the conclusion that it was only a case of negligence on the part of the conductor and there was no intention of misappropriation. It must be also mentioned here that when the corporation had awarded the punishment of stopping one increment with permanent effect, the corporation must be also of the view that it was a case of negligence and not a case of misappropriation of funds. It is not the case of the corporation that the respondent had previous bad history and because of his bad conduct he does not deserve any leniency. When the act committed by the respondent is only an act of negligence and that too of not of very serious consequence the order passed by the learned Industrial Tribunal in modifying the punishment could not be said to be unreasonable or grossly inadequate. I therefore, hold that this is not a fit case in which this court should use its discretion under Article 227 of the Constitution so as to interfere with the order of modification of punishment passed by the Member of the Industrial Tribunal. I therefore, hold that present petition deserves to be dismissed. Accordingly the petition is dismissed. Rule discharged. No order as to costs.

(S.D.Pandit.J)